

Remarks/Arguments:

Claim Rejections Under 35 U.S.C. §102

Claims 15-28 stand rejected under 35 U.S.C. §102 as anticipated by U.S. Patent No. 5,918,948 (Burgdorf et al.). Applicants traverse these rejections.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. §2131 *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 15 recites an "electrohydraulic brake system for motor vehicles of the 'brake-by-wire' type including a hydraulic pressure source that can be actuated by means of an electronic control unit and is comprised of a hydraulic pump driven by an electric motor and a high-pressure accumulator adapted to be recharged by the pump, wherein a means is provided for monitoring the hydraulic delivery rate of the pump and determining quantities of gas or air at the suction side of the pump based on the monitored hydraulic delivery rate."

Burgdorf et al. fails to teach means for monitoring the hydraulic delivery rate of the pump and determining quantities of gas or air at the suction side of the pump based on the monitored hydraulic delivery rate. The office action indicates that Burgdorf et al. discloses such at column 3, lines 1-10, however, applicants respectfully submit that Burgdorf et al. does not disclose such. The cited portion of Burgdorf et al. simply states that "the charging condition of the pressure accumulator may be monitored by a pressure sensor or a position sensor. . . ." The cited portion, as well as the remainder of Burgdorf et al., is silent on means for determining quantities of gas or air at the suction side of the pump by any means. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

It is respectfully submitted that independent claim 15 is condition for allowance. Claims 16-21 each depend from claim 15 and should each be allowed for at least the reasons set forth above.

Furthermore, dependent claim 16 further recites that "the hydraulic delivery rate is monitored by determining the electromotive force of the electric motor driving the hydraulic pump." The office action fails to provide any support for this limitation being found in Burgdorf et al. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

Furthermore, dependent claim 17 further recites that "the hydraulic delivery rate is monitored by determining the electric power consumption of the electric motor driving the hydraulic pump." The office action fails to provide any support for this limitation being found in Burgdorf et al. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

Furthermore, dependent claim 18 further recites that "the hydraulic delivery rate is monitored by determining the rotational speed of the electric motor driving the hydraulic pump." The office action fails to provide any support for this limitation being found in Burgdorf et al. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

Similar to claim 15, independent claim 22 recites a "method of monitoring an electrohydraulic brake system for motor vehicles of the 'brake-by-wire' type including a hydraulic pressure source that can be actuated by means of an electronic control unit and is comprised of a hydraulic pump driven by an electric motor and a high-pressure accumulator adapted to be recharged by the pump, wherein quantities of gas or air at the suction side of the pump are detected by determining the hydraulic delivery rate of the pump."

As explained above, Burgdorf et al. does not teach detecting quantities of gas or air at the suction side of the pump by determining the hydraulic delivery rate of the pump. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

It is respectfully submitted that independent claim 22 is condition for allowance. Claims 23-28 each depend from claim 22 and should each be allowed for at least the reasons set forth above.

Furthermore, dependent claim 23 further recites that "the hydraulic delivery rate is determined by analyzing the electromotive force of the electric motor driving the pump." The office action fails to provide any support for this limitation being found in Burgdorf et al. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

Furthermore, dependent claim 24 further recites that "the hydraulic delivery rate is determined by analyzing the electric power consumption of the electric motor driving the pump." The office action fails to provide any support for this limitation being found in Burgdorf

et al. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

Furthermore, dependent claim 25 further recites that "the hydraulic delivery rate is determined by analyzing the rotational speed of the electric motor driving the pump." The office action fails to provide any support for this limitation being found in Burgdorf et al. Since each and every element as set forth in the claim is not found, either expressly or inherently described, in Burgdorf et al., the reference fails to anticipate the claimed invention.

It is respectfully submitted that each of the pending claims is in condition for allowance. Early reconsideration and allowance of each of the pending claims are respectfully requested.

If the Examiner believes an interview, either personal or telephonic, will advance the prosecution of this matter, it is respectfully requested that the Examiner get in contact with the undersigned to arrange the same.

Respectfully submitted,



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